

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JANE DOE,

Plaintiff,

vs.

OMAHA PUBLIC SCHOOL DISTRICT,
SUSAN COLVIN, and WESLEY G. DACUS,

Defendants.

8:17CV96

ORDER

This matter is before the Court on Plaintiff's Motion to Strike Amended Answer ([Filing No. 21](#)) and Defendants' Motion for Leave to File an Amended Answer. ([Filing No. 24](#).) For the reasons explained below, these motions will be granted.

DISCUSSION

Without seeking leave of Court, Defendants filed an Amended Answer on August 25, 2017. ([Filing No. 20](#).) Shortly thereafter, Plaintiff filed the instant Motion to Strike, arguing that the Amended Answer should be stricken due to Defendants' failure to seek leave to amend as required by Federal Rule of Civil Procedure 15.

In response to the Motion to Strike, Defendants filed their Motion for Leave to File an Amended Answer. Plaintiff did not respond to Defendants' Motion for Leave.

Having considered the matter, the Court finds that Plaintiff's Motion to Strike Amended Answer should be granted. Defendants did not seek leave to amend as required by Federal Rule of Civil Procedure 15 before filing their Amended Answer ([Filing No. 20](#)). Therefore, the Amended Answer found at Filing No. 20 will be stricken from the record.

However, the Court also concludes that Defendants' Motion for Leave to File an Amended Answer should be granted. Plaintiff will not be unfairly prejudiced by an amended

answer and allowing amendment will not delay progression of this case. Defendants filed their original Answer on June 29, 2017. ([Filing No. 13](#)). On August 15, 2017, following receipt of the parties' Rule 26(f) Report, the Initial Progression Order ([Filing No. 17](#)) was entered. The Initial Progression Order set November 1, 2017 as the deadline for filing motions to amend pleadings. Defendants filed the Motion for Leave to Amend well in advance of this deadline. Moreover, the Planning Conference will not be held until November 13, 2017, so a final progression schedule has not been established. Therefore, the interests of justice favor amendment.

Accordingly,

IT IS ORDERED:

1. Plaintiff's Motion to Strike Amended Answer ([Filing No. 21](#)) is granted. The Clerk of Court shall strike Filing No. 20 from the record.
2. Defendants' Motion for Leave to File an Amended Answer ([Filing No. 24](#)) is granted.
3. Defendants shall file their Amended Answer by November 6, 2017.

Dated this 2nd of November, 2017.

BY THE COURT:

s/ Susan M. Bazis
United States Magistrate Judge